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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,902	09/06/2006	Ole Birch	00660.0325-US-WO	4725
22865	7590	02/26/2008	EXAMINER	
Altera Law Group, LLC 220 S 6 St Suite 1700 Minneapolis, MN 55402			PAUL, DISLER	
			ART UNIT	PAPER NUMBER
			2615	
			MAIL DATE	DELIVERY MODE
			02/26/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/572,902

Applicant(s)

BIRCH, OLE

Examiner

Disler Paul

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/21/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollemans et al. (US 2007/0036363 A1) and Jacobs et al. (US 5,059,958).

Re claim 1, Hollemans et al. disclose of the headset having an electrical circuit comprising wherein the headset has a number of control knobs for adjusting the electrical properties of the headset, and wherein the functions of the control knobs may be adapted in dependence on the orientation of the headset (fig.4-5, page 3 par[0040], page 2 par[0033], page 1 par[0015]), wherein the gravitation switch which is adapted to switch the functions of the control knobs, said gravitation switch comprising at least one elongated channel that houses a moveable conducting object, and that through-platings are provided at the ends of the channel (fig.4-5, page 1 par[0024], page 5 par[0083]/conducting balls through earpiece at channel ends).

But, Hollemans et al. fail to disclose of the wherein comprising a printed circuit board and wherein the printed circuit board has incorporated therein the gravitation switch. But, Jacobs et al. disclose of a control device wherein comprising a printed circuit board and wherein the printed circuit board has incorporated therein the gravitation switch (fig.9, col.3 line 63 to col.4 line 2) for purpose of generating functional control signals. thus, taking the combined

teaching of Hollemans et al. and Jacobs et al. as a whole, it would have been obvious for one of the ordinary skill in the art at the time of the invention to have modify Hollemans et al. by incorporating the control device wherein comprising a printed circuit board and wherein the printed circuit board has incorporated therein the gravitation switch for purpose of generating functional control signals.

Re claim 2, the headset according to claim 1, wherein the channel is oriented vertically (fig.2, [0081]/ mirror plane with channel in vertical symmetry).

Re claim 4, the headset according to claims 1, wherein the conducting object is formed by a ball or a cylinder of conducting rubber (par[0024,0083]).

Re claim 5, the headset according to claims 1, wherein the number of control knobs is two, and that the gravitation switch comprises the channel with the conducting object which, when the conducting object is at one end of the channel, controls a switching circuit which will cause the uppermost control knob to perform a first function and the lowermost one to perform a second function, and when the gravitation switch is at the opposite end of the housing, corresponding to the uppermost control knob switching to being the lowermost control knob and the lowermost control knob to being the uppermost control knob, then the switching circuit will cause the uppermost and lowermost control knobs to still perform the first function and the second function, respectively (fig.1 wt (106-107), par[0024,0083]/ball to close the circuit at the points of contact in the housing, wherein the knobs perform function dependent on orientation.).

3. Claims 3,6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollemans et al. (US 2007/0036363 A1) and Jacobs et al. (US 5,059,958) and further in view of Righter et al. (US 5,365,935).

Re claim 3, the headset according to claims 1, however, the combined teaching of Hollemans et al. and Jacobs et al. as a whole, fail to disclose of the wherein a set of channels is configured as three sub-channels in a star configuration. However, Righter disclose of a system wherein a set of channels is configured as three sub-channels in a star configuration (fig.1D, 2A, col.4 line 7-40/triangular configuration) for purpose of overcoming the deficiency of the physical unit size and obtaining multiple channels reading with the unit. Thus, taking the combined teaching of the combined teaching of Hollemans et al. and Jacobs et al. and Righter et al. as a whole, it would have been obvious for one of the ordinary skill in the art to move modify the combined teaching of Hollemans et al. and Jacobs et al. as a whole, by incorporating the system wherein a set of channels is configured as three sub-channels in a star configuration for purpose of overcoming the deficiency of the physical unit size and obtaining multiple channels reading with the unit.

Re claim 6, the headset according to claims 3, wherein the three channels are arranged in multiple varying directions /positions for taking measurements (Righter, col.4 line 5-40), however, the combined the combined teaching of Hollemans et al. and Jacobs et al. and Righter et al. as a whole, fail to disclose of the specific wherein two of the channels in the set of channels are arranged symmetrically relative to the horizontal and extend obliquely relative to the vertical, while the third channel extends horizontally. However, official notice is taken such limitation of arranging the channels wherein the specific wherein two of the channels in the set


of channels are arranged symmetrically relative to the horizontal and extend obliquely relative to the vertical, while the third channel extends horizontally is simply the inventor's preference, thus, it would have been obvious to have modify the combined teaching of Hollemans et al. and Jacobs et al. and Richter et al. as a whole, by incorporating the specific wherein two of the channels in the set of channels are arranged symmetrically relative to the horizontal and extend obliquely relative to the vertical for obtaining the plurality of channels reading.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER

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